Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

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By the Commission: Chairman Genachowski and Commissioners Copps and Clyburn issuing separate statements; Commissioner McDowell approving in part, concurring in part and issuing a statement.

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I. INTRODUCTION

1. Today the Commission comprehensively reforms and modernizes the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. We adopt fiscally responsible, accountable, incentive-based policies to transition these outdated systems to the Connect America Fund, ensuring fairness for consumers and addressing the communications infrastructure challenges of today and tomorrow. We use measured but firm glide paths to provide industry with certainty and sufficient time to adapt to a changed regulatory landscape, and establish a framework to distribute universal service funding in the most efficient and technologically neutral manner possible, through market-based mechanisms such as competitive bidding.

2. One of the Commission's central missions is to make "available ... to all the people of the United States ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."[1] For decades, the Commission and the states have administered a complex system of explicit and implicit subsidies to support voice connectivity to our most expensive to serve, most rural, and insular communities. Networks that provide only voice service, however, are no longer adequate for the country's communication needs.

3. Fixed and mobile broadband have become crucial to our nation's economic growth, global competitiveness, and civic life.[2] Businesses need broadband to attract customers and employees, job-seekers need broadband to find jobs and training, and children need broadband to get a world-class education. Broadband also helps lower the costs and improve the quality of health care, and enables people with disabilities and Americans of all income levels to participate more fully in society. Community anchor institutions, including schools and libraries, cannot achieve their critical purposes without access to robust broadband. Broadband-enabled jobs are critical to our nation's economic

[1] 47 U.S.C. § 151.

[2] *See generally* Federal Communications Commission, *Connecting America: The National Broadband Plan* (rel. Mar. 16, 2010), at xi (National Broadband Plan).

recovery and long-term economic health, particularly in small towns, rural and insular areas, and Tribal lands.

4. But too many Americans today do not have access to modern networks that support broadband. Approximately 18 million Americans live in areas where there is no access to robust fixed broadband networks.[3] And millions of Americans live, work, or travel in areas without access to advanced mobile services. There are unserved areas in every state of the nation and its territories, and in many of these areas there is little reason to believe that Congress's desire "to ensure that all people of the United States have access to broadband capability"[4] will be met any time soon with current policies.

5. The universal service challenge of our time is to ensure that all Americans are served by networks that support high-speed Internet access—in addition to basic voice service—where they live, work, and travel. Consistent with that challenge, extending and accelerating fixed and mobile broadband deployment has been one of the Commission's top priorities over the past few years. We have taken a series of significant steps to better enable the private sector to deploy broadband facilities to all Americans. The Commission has provided the tools to promote both wired and wireless solutions by offering new opportunities to access and use spectrum,[5] removing barriers to infrastructure investment,[6] and developing better and more complete broadband and spectrum data.[7] Today's Order focuses on costly-to-serve communities where even with our actions to lower barriers to investment nationwide, private sector economics still do not add up, and therefore the immediate prospect for stand-alone private sector action is limited. We build on the Rural Utilities Service's (RUS's) Broadband Initiatives Program (BIP) and the National Telecommunications and Information Administration's (NTIA's) Broadband Technology Opportunities Program (BTOP),[8] through which Congress appropriated over $7 billion in

[3] *See* National Broadband Map, *available at* http://www.broadbandmap.gov. Based on data as of December 2010, there are an estimated 18.8 million Americans that lacked access to terrestrial fixed broadband services with a maximum advertised download speed of at least 3 Mbps and a maximum advertised upload speed of at least 768 kbps. For these purposes, terrestrial fixed broadband technologies include xDSL, other copper, cable modem, fiber to the end user, fixed wireless, whether licensed or unlicensed, and electric power line.

[4] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, 516, § 6001(k)(2)(D), (Recovery Act).

[5] *See, e.g.*, *Unlicensed Operation in the TV Broadcast Bands*, ET Docket Nos. 04-186, 02-380, Second Memorandum Opinion and Order, 25 FCC Rcd 18661 (2010); *Amendment of Part 27 of the Commission's Rules To Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, WT Docket No. 07-293, IB Docket No. 95-91, GN Docket No. 90-357, RM-8610, Report and Order, 25 FCC Rcd 11710 (2010) (removing technical impediments to mobile broadband for Wireless Communications Service at 2.3 GHz, freeing up 25 MHz of spectrum).

[6] *See Implementation of Section 224 of the Act, A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 (rel. Apr. 7, 2011); *The FCC's Broadband Acceleration Initiative; Reducing Regulatory Barriers To Spur Broadband Buildout*, Public Notice, 2011 WL 466770 (Feb. 9, 2011) (*available at* http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0209/DOC-304571A2.pdf).

[7] *See* Measuring Broadband America, A Report on Consumer Wireline Broadband Performance in the U.S., FCC's Office of Engineering and Technology and Consumer and Governmental Affairs Bureau, 2011 WL 3343075 (Aug. 2, 2011) (Measuring Broadband America Report); *Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 11-10, 07-38, 08-190, 10-132, Notice of Proposed Rulemaking, 26 FCC Rcd 1508 (2011) (*Modernizing Form 477 NPRM*); Press Release, Commission Announces "Beta" Launch of Spectrum Dashboard (Mar. 17, 2010) (*available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296942A1.doc).

grants and loans to expand broadband deployment and adoption in unserved and underserved areas. We also build on federal and state universal service programs that have supported networks in rural America for many years.

6. Our existing universal service and intercarrier compensation systems are based on decades-old assumptions that fail to reflect today's networks, the evolving nature of communications services, or the current competitive landscape. As a result, these systems are ill equipped to address the universal service challenges raised by broadband, mobility, and the transition to Internet Protocol (IP) networks.

7. With respect to broadband, the component of the Universal Service Fund (USF) that supports telecommunications service in high-cost areas has grown from $2.6 billion in 2001 to a projected $4.5 billion in 2011, but recipients lack any obligations or accountability for advancing broadband-capable infrastructure. We also lack sufficient mechanisms to ensure all Commission-funded broadband investments are prudent and efficient, including the means to target investment only to areas that require public support to build broadband. Due in part to these problems, a "rural-rural" divide persists in broadband access—some parts of rural America are connected to state-of-the-art broadband, while other parts of rural America have no broadband access, because the existing program fails to direct money to all parts of rural America where it is needed.

8. Similarly, the Fund supports some mobile providers, but only based on cost characteristics and locations of wireline providers. As a result, the universal service high-cost program provides approximately $1 billion in annual support to wireless carriers, yet there remain areas of the country where people live, work, and travel that lack even basic mobile voice coverage, and many more areas that lack mobile broadband coverage. We need dedicated mechanisms to support mobility and close these gaps in mobile coverage, and we must rationalize the way that funding is provided to ensure that it is cost-effective and targeted to areas of need.

9. The intercarrier compensation (ICC) system is similarly outdated, designed for an era of separate long-distance companies and high per-minute charges, and established long before competition emerged among telephone companies, cable companies, and wireless providers for bundles of local and long distance phone service and other services. Over time, ICC has become riddled with inefficiencies and opportunities for wasteful arbitrage. And the system is eroding rapidly as consumers increasingly shift from traditional telephone service to substitutes including Voice over Internet Protocol (VoIP), wireless, texting, and email. As a result, companies' ICC revenues have become dangerously unstable, impeding investment, while costly disputes and arbitrage schemes have proliferated. The existing system, based on minutes rather than megabytes, is also fundamentally in tension with and a deterrent to deployment of IP networks. The system creates competitive distortions because traditional phone companies receive implicit subsidies from competitors for voice service, while wireless and other companies largely compete without the benefit of such subsidies. Most concerning, the current ICC system is unfair for consumers, with hundreds of millions of Americans paying more on their wireless and long distance bills than they should in the form of hidden, inefficient charges. We need a more incentive-based, market-driven approach that can reduce arbitrage and competitive distortions by phasing down byzantine per-minute and geography-based charges. And we need to provide more certainty and predictability regarding revenues to enable carriers to invest in modern, IP networks.

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[8] *See* USDA Rural Development—UTP Broadband Initiatives Program Main, http://www.rurdev.usda.gov/utp_bip.html; NTIA, BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM, EXPANDING BROADBAND ACCESS AND ADOPTION IN COMMUNITIES ACROSS AMERICA, OVERVIEW OF GRANT AWARDS (2010) (*available at* http://www.ntia.doc.gov/reports/2010/NTIA_Report_on_BTOP_12142010.pdf).

10. Under these circumstances, modernizing USF and ICC from supporting just voice service to supporting voice and broadband, both fixed and mobile, through IP networks is required by statute. The Communications Act directs the Commission to preserve and advance universal service: "Access to advanced telecommunications and information services should be provided in all regions of the Nation."[9] It is the Commission's statutory obligation to maintain the USF consistent with that mandate and to continue to support the nation's telecommunications infrastructure in rural, insular, and high-cost areas. The statute also requires the Commission to update our mechanisms to reflect changes in the telecommunications market. Indeed, Congress explicitly defined universal service as "an evolving level of telecommunications services . . . taking into account advances in telecommunications and information technologies and services."[10] More recently, Congress required the Commission to report annually on the state of broadband availability, and to develop the National Broadband Plan, "to ensure that all people of the United States have access to broadband capability."[11]

11. Upon the release of the National Broadband Plan last year, the Commission said in its Joint Statement on Broadband, "[USF] and [ICC] should be comprehensively reformed to increase accountability and efficiency, encourage targeted investment in broadband infrastructure, and emphasize the importance of broadband to the future of these programs."[12] Consistent with the Joint Statement and the Broadband Plan, we proposed in the *USF/ICC Transformation NPRM* to be guided in the USF-ICC reform process by the following four principles, rooted in the Communications Act:[13]

- *Modernize USF and ICC for Broadband.* Modernize and refocus USF and ICC to make affordable broadband available to all Americans and accelerate the transition from circuit-switched to IP networks, with voice ultimately one of many applications running over fixed and mobile broadband networks. Unserved communities across the nation cannot continue to be left behind.
- *Fiscal Responsibility.* Control the size of USF as it transitions to support broadband, including by reducing waste and inefficiency. We recognize that American consumers and businesses ultimately pay for USF, and that if it grows too large this contribution burden may undermine the benefits of the program by discouraging adoption of communications services.
- *Accountability.* Require accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results. Government must also be accountable for the administration of USF, including through clear goals and performance metrics for the program.
- *Incentive-Based Policies.* Transition to incentive-based policies that encourage technologies and services that maximize the value of scarce program resources and the benefits to all consumers.

[9] 47 U.S.C. § 254(b)(2).

[10] *Id.* § 254(c)(1).

[11] Recovery Act, 123 Stat. at 516.

[12] *Joint Statement on Broadband*, GN Docket No. 10-66, Joint Statement on Broadband, 25 FCC Rcd 3420, 3421 (2010).

[13] *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, 4560-61 (2011) (*USF/ICC Transformation NPRM*).

We have also sought to phase in reform with measured but certain transitions, so companies affected by reform have time to adapt to changing circumstances.

12. There has been enormous interest in and public participation in our data-driven reform process.[14] We have received over 2,700 comments, reply comments, and ex parte filings totaling over 26,000 pages, including hundreds of financial filings from telephone companies of all sizes, including numerous small carriers that operate in the most rural parts of the nation. We have held over 400 meetings with a broad cross-section of industry and consumer advocates. We held three open, public workshops, and engaged with other federal, state, Tribal, and local officials throughout the process. We are appreciative of the efforts of many parties, including the State Members of the Federal-State Universal Service Joint Board, to propose comprehensive solutions to the challenging problems of our current system.

13. The reforms we adopt today build on the input of all stakeholders, including Tribal leaders, states, territories, consumer advocates, incumbent and competitive telecommunications providers, cable companies, wireless providers (including wireless Internet service providers – WISPs), satellite providers, community anchor institutions, and other technology companies. We have taken a holistic view of the entire record, and have adopted—though often with modifications designed to better serve the public interest—a number of elements from various stakeholder proposals.

14. Our actions today will benefit consumers. In rural communities throughout the country our reforms will expand broadband and mobility significantly, providing access to critical employment, public safety, educational, and health care opportunities to millions of Americans for the first time. It has been more than a decade since the Commission has comprehensively updated its USF and ICC rules. Those prior efforts helped usher in significant reductions in long distance rates and the proliferation of innovative new offerings, such as all-distance and flat-priced wireless calling plans, with substantial consumer benefits. We expect that today's ICC actions will have similar pro-consumer, pro-innovation results, providing over $1.5 billion annually in benefits for wireless and all long-distance customers. These benefits may take many forms, including cost savings, more robust wireless service, and more innovative IP-based communications offerings. Given these effects, we project that the average consumer benefits of our reforms outweigh any costs by at least 3 to 1 -- and of course, by much more for the million of consumers that will get broadband for the first time. Eliminating implicit subsidies also helps level the competitive playing field by allowing consumers to more accurately compare service offerings from telephone companies, cable companies, and wireless providers. In addition, we adopt a number of safeguards to protect consumers during the reform process, placing clear limits on end-user charges and putting USF on a firm budget to help stabilize the contribution burden on consumers.

15. We recognize that USF and ICC are both hybrid state-federal systems, and it is critical to our reforms' success that states remain key partners even as these programs evolve and traditional roles shift. Over the years, we have engaged in ongoing dialogue with state commissions on a host of issues, including universal service. We recognize the statutory role that Congress created for state commissions with respect to eligible telecommunications carrier designations, and we do not disturb that framework. We know that states share our interest in extending voice and broadband service, both fixed and mobile,

[14] The comment cycle for the *USF/ICC Transformation NPRM* was at least 30 days for each section, and the NPRM was available for ex parte comment from its release on February 9, 2011 until the Sunshine period began on October 21, 2011. *See USF/ICC Transformation NPRM*, 26 FCC Rcd at 4554; FCC To Hold Open Commission Meeting Thursday, October 27, 2011, Public Notice (rel. Oct. 20, 2011). Stakeholders thus had ample time to participate in this proceeding, notwithstanding the claims of some parties. *See, e.g.*, Letter from Jerry Petrowski, Wisconsin State Representative, to Hon. Julius Genachowski, Chairman, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-32, 96-45; GN Docket No. 09-51 (filed Oct. 18, 2011).

where it is lacking, to better meet the needs of their consumers.[15] Therefore, we do not seek to modify the existing authority of states to establish and monitor carrier of last resort (COLR) obligations. We will continue to rely upon states to help us determine whether universal service support is being used for its intended purposes, including by monitoring compliance with the new public interest obligations described in this Order. We also recognize that federal and state regulators must reconsider how legacy regulatory obligations should evolve as service providers accelerate their transition from the Public Switched Telephone Network (PSTN) to an all IP world.

16. We believe that the framework adopted today provides all stakeholders with a clear path forward as the Commission transitions its voice support mechanisms to expressly include broadband and mobility, from the PSTN to IP, and toward market-based policies, such as competitive bidding. We will closely monitor the progress made and stand ready to adjust the framework as necessary to protect consumers, expand broadband access and opportunities, eliminate new arbitrage or inefficient behavior, ensure USF stays within our budget, and continue our transition to IP communications in a competitive and technologically neutral manner.

II. EXECUTIVE SUMMARY

A. Universal Service Reform

17. *Principles and Goals.* We begin by adopting support for broadband-capable networks as an express universal service principle under section 254(b) of the Communications Act, and, for the first time, we set specific performance goals for the high-cost component of the USF that we are reforming today, to ensure these reforms are achieving their intended purposes. The goals are: (1) preserve and advance universal availability of voice service; (2) ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions; (3) ensure universal availability of modern networks capable of providing advanced mobile voice and broadband service; (4) ensure that rates for broadband services and rates for voice services are reasonably comparable in all regions of the nation; and (5) minimize the universal service contribution burden on consumers and businesses.

18. *Budget.* We establish, also for the first time, a firm and comprehensive budget for the high-cost programs within USF.[16] The annual funding target is set at no more than $4.5 billion over the next six years, the same level as the high-cost program for Fiscal Year 2011, with an automatic review trigger if the budget is threatened to be exceeded. This will provide for more predictable funding for carriers and will protect consumers and businesses that ultimately pay for the fund through fees on their communications bills. We are today taking important steps to control costs and improve accountability in USF, and our estimates of the funding necessary for components of the Connect America Fund (CAF) and legacy high-cost mechanisms represent our predictive judgment as to how best to allocate limited resources at this time. We anticipate that we may revisit and adjust accordingly the appropriate size of each of these programs by the end of the six-year period, based on market developments, efficiencies realized, and further evaluation of the effect of these programs in achieving our goals.

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[15] *See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision 22 FCC Rcd 20477 (Fed.-State Jt. Bd., rel. Nov. 20, 2007).

[16] While we recognize that over time several of our existing support mechanisms will be phased down and eliminated, for purposes of this budget, the term "high-cost" includes all support mechanisms in place as of the date of this Order, specifically, high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high cost model support, and interstate access support, as well as the new Connect America Fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile, and funding provided in conjunction with the recovery mechanism adopted as part of intercarrier compensation reform.

19. *Public Interest Obligations.* While continuing to require that all eligible telecommunications carriers (ETCs) offer voice services, we now require that they also offer broadband services. We update the definition of voice services for universal service purposes, and decline to disrupt any state carrier of last resort obligations that may exist. We also establish specific and robust broadband performance requirements for funding recipients.

20. *Connect America Fund.* We create the Connect America Fund, which will ultimately replace all existing high-cost support mechanisms. The CAF will help make broadband available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have broadband, including mobile voice and broadband networks in areas that do not, or would not otherwise, have mobile service, and broadband in the most remote areas of the nation. The CAF will also help facilitate our ICC reforms. The CAF will rely on incentive-based, market-driven policies, including competitive bidding, to distribute universal service funds as efficiently and effectively as possible.

21. *Price Cap Territories.* More than 83 percent of the approximately 18 million Americans that lack access to residential fixed broadband at or above the Commission's broadband speed benchmark live in areas served by price cap carriers—Bell Operating Companies and other large and mid-sized carriers. In these areas, the CAF will introduce targeted, efficient support for broadband in two phases.

22. *Phase I.* To spur immediate broadband buildout, we will provide additional funding for price cap carriers to extend robust, scalable broadband to hundreds of thousands of unserved Americans beginning in early 2012. To enable this deployment, all existing legacy high-cost support to price cap carriers will be frozen, and an additional $300 million in CAF funding will be made available. Frozen support will be immediately subject to the goal of achieving universal availability of voice and broadband, and subject to obligations to build and operate broadband-capable networks in areas unserved by an unsubsidized competitor over time. Any carrier electing to receive the additional support will be required to deploy broadband and offer service that satisfies our new public interest obligations to an unserved location for every $775 in incremental support. Specifically, carriers that elect to receive this additional support must provide broadband with actual speeds of at least 4 Mbps downstream and 1 Mbps upstream,[17] with latency suitable for real-time applications and services such as VoIP, and with monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas. In addition, to ensure fairness for consumers across the country who pay into USF, we reduce existing support levels in any areas where a price cap company charges artificially low end-user voice rates.

23. *Phase II.* The next phase of the CAF will use a combination of a forward-looking broadband cost model and competitive bidding to efficiently support deployment of networks providing both voice and broadband service for five years. We expect that the CAF will expand broadband availability to millions more unserved Americans.

24. We direct the Wireline Competition Bureau to undertake a public process to determine the specific design and operation of the cost model to be used for this purpose, with stakeholders encouraged to participate in that process. The model will be used to establish the efficient amount of support required to extend and sustain robust, scalable broadband in high-cost areas. In each state, each incumbent price cap carrier will be asked to undertake a "state-level commitment" to provide affordable broadband to all high-cost locations in its service territory in that state, excluding extremely high cost areas as determined by the model. Importantly, the CAF will only provide support in those areas where a federal subsidy is necessary to ensure the build-out and operation of broadband networks. The CAF will not provide support in areas where unsubsidized competitors are providing broadband that meets our

[17] Upon a showing that the specified support amount is inadequate to enable build out of broadband with actual upstream speeds of at least 1 Mbps to the required number of locations, a carrier may request a waiver.

definition. Carriers accepting the state-level commitment will be obligated to meet rigorous broadband service requirements—with interim build-out requirements in three years and final requirements in five years—and will receive CAF funding, in an amount calculated by the model, over a five-year period, with significant financial consequences in the event of non- or under-performance. We anticipate that CAF obligations will keep pace as services in urban areas evolve, and we will ensure that CAF-funded services remain reasonably comparable to urban broadband services over time. After the five-year period, the Commission will use competitive bidding to distribute any universal service support needed in those areas.

25. In areas where the incumbent declines the state-level commitment, we will use competitive bidding to distribute support in a way that maximizes the extent of robust, scalable broadband service subject to an overall budget. In the Further Notice of Proposed Rulemaking (FNPRM) that accompanies today's Order, we propose a structure and operational details for the competitive bidding mechanism, in which any broadband provider that has been designated as an ETC for the relevant area may participate. The second phase of the CAF will distribute a total of up to $1.8 billion annually in support for areas with no unsubsidized broadband competitor. We expect that the model and competitive bidding mechanism will be adopted by December 2012, and disbursements will ramp up in 2013 and continue through 2017.

26. *Rate-of-Return Reforms.* Although they serve less than five percent of access lines in the U.S., smaller rate-of-return carriers operate in many of the country's most difficult and expensive areas to serve. Rate-of-return carriers' total support from the high-cost fund is approaching $2 billion annually. We reform our rules for rate-of-return companies in order to support continued broadband investment while increasing accountability and incentives for efficient use of public resources. Rate-of-return carriers receiving legacy universal service support, or CAF support to offset lost ICC revenues, must offer broadband service meeting initial CAF requirements, with actual speeds of at least 4 Mbps downstream and 1 Mbps upstream, upon their customers' reasonable request. Recognizing the economic challenges of extending service in the high-cost areas of the country served by rate-of-return carriers, this flexible approach does not require rate-of-return companies to extend service to customers absent such a request.

27. Alongside these broadband service rules, we adopt reforms to: (1) establish a framework to limit reimbursements for excessive capital and operating expenses, which will be implemented no later than July 1, 2012, after an additional opportunity for public comment; (2) encourage efficiencies by extending existing corporate operations expense limits to the existing high-cost loop support and interstate common line support mechanisms, effective January 1, 2012; (3) ensure fairness by reducing high-cost loop support for carriers that maintain artificially low end-user voice rates, with a three-step phase-in beginning July 1, 2012; (4) phase out the Safety Net Additive component of high-cost loop support over time; (5) address Local Switching Support as part of comprehensive ICC reform; (6) phase out over three years support in study areas that overlap completely with an unsubsidized facilities-based terrestrial competitor that provides voice and fixed broadband service, beginning July 1, 2012; and (7) cap per-line support at $250 per month, with a gradual phasedown to that cap over a three-year period commencing July 1, 2012. In the FNPRM, we seek comment on establishing a long-term broadband-focused CAF mechanism for rate-of-return carriers, and relatedly seek comment on reducing the interstate rate-of-return from its current level of 11.25 percent. We expect rate-of-return carriers will receive approximately $2 billion per year in total high-cost universal service support under our budget through 2017.

28. *CAF Mobility Fund.* Concluding that mobile voice and broadband services provide unique consumer benefits, and that promoting the universal availability of such services is a vital component of the Commission's universal service mission, we create the Mobility Fund, the first universal service mechanism dedicated to ensuring availability of mobile broadband networks in areas where a private-sector business case is lacking. Mobile broadband carriers will receive significant legacy support during the transition to the Mobility Fund, and will have opportunities for new Mobility Fund

dollars. The providers receiving support through the CAF Phase II competitive bidding process will also be eligible for the Mobility Fund, but carriers will not be allowed to receive redundant support for the same service in the same areas. Mobility Fund recipients will be subject to public interest obligations, including data roaming and collocation requirements.

- *Phase I.* We provide up to $300 million in one-time support to immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas. Mobility Fund Phase I support will be awarded through a nationwide reverse auction, which we expect to occur in third quarter 2012. Eligible areas will include census blocks unserved today by mobile broadband services, and carriers may not receive support for areas they have previously stated they plan to cover. The auction will maximize coverage of unserved road miles within the budget, and winners will be required to deploy 4G service within three years, or 3G service within two years, accelerating the migration to 4G. We also establish a separate and complementary one-time Tribal Mobility Fund Phase I to award up to $50 million in additional universal service funding to Tribal lands to accelerate mobile voice and broadband availability in these remote and underserved areas.

- *Phase II.* To ensure universal availability of mobile broadband services, the Mobility Fund will provide up to $500 million per year in ongoing support. The Fund will expand and sustain mobile voice and broadband services in communities in which service would be unavailable absent federal support. The Mobility Fund will include ongoing support for Tribal areas of up to $100 million per year as part of the $500 million total budget. In the FNPRM we propose a structure and operational details for the ongoing Mobility Fund, including the proper distribution methodology, eligible geographic areas and providers, and public interest obligations. We expect to adopt the distribution mechanism for Phase II in 2012 with implementation in 2013.

29. *Identical Support Rule.* In light of the new support mechanisms we adopt for mobile broadband service and our commitment to fiscal responsibility, we eliminate the identical support rule that determines the amount of support for mobile, as well as wireline, competitive ETCs today. We freeze identical support per study area as of year end 2011, and phase down existing support over a five-year period beginning on July 1, 2012. The gradual phase down we adopt, in conjunction with the new funding provided by Mobility Fund Phase I and II, will ensure that an average of over $900 million is provided to mobile carriers for each of the first four years of reform (through 2015). The phase down of competitive ETC support will stop if Mobility Fund Phase II is not operational by June 30, 2014, ensuring approximately $600 million per year in legacy support will continue to flow until the new mechanism is operational.

30. *Remote Areas Fund.* We allocate at least $100 million per year to ensure that Americans living in the most remote areas in the nation, where the cost of deploying traditional terrestrial broadband networks is extremely high, can obtain affordable access through alternative technology platforms, including satellite and unlicensed wireless services.[18] We propose in the FNPRM a structure and operational details for that mechanism, including the form of support, eligible geographic areas and providers, and public interest obligations. We expect to finalize the Remote Areas Fund in 2012 with implementation in 2013.

31. *Reporting and Enforcement.* We establish a national framework for certification and reporting requirements for all universal service recipients to ensure that their public interest obligations are satisfied, that state and federal regulators have the tools needed to conduct meaningful oversight, and that public funds are expended in an efficient and effective manner. We do not disturb the existing role of

[18] We note that satellite broadband providers and wireless Internet service providers (WISPs) are not confined to participating only in this component of the CAF; they are eligible to participate in any CAF program for which they can meet the specified performance requirements.

states in designating ETCs and in monitoring that ETCs within their jurisdiction are using universal service support for its intended purpose. We seek comment on whether and how we should adjust federal obligations on ETCs in areas where legacy funding is phased down. We also adopt rules to reduce or eliminate support if public interest obligations or other requirements are not satisfied, and seek comment on the appropriateness of additional enforcement mechanisms.

32. *Waiver.* As a safeguard to protect consumers, we provide for an explicit waiver mechanism under which a carrier can seek relief from some or all of our reforms if the carrier can demonstrate that the reduction in existing high-cost support would put consumers at risk of losing voice service, with no alternative terrestrial providers available to provide voice telephony.

B. Intercarrier Compensation Reform

33. *Immediate ICC Reforms.* We take immediate action to curtail wasteful arbitrage practices, which cost carriers and ultimately consumers hundreds of millions of dollars annually:

- *Access Stimulation.* We adopt rules to address the practice of access stimulation, in which carriers artificially inflate their traffic volumes to increase ICC payments. Our revised interstate access rules generally require competitive carriers and rate-of-return incumbent local exchange carriers (LECs) to refile their interstate switched access tariffs at lower rates if the following two conditions are met: (1) a LEC has a revenue sharing agreement and (2) the LEC either has (a) a three-to-one ratio of terminating-to-originating traffic in any month or (b) experiences more than a 100 percent increase in traffic volume in any month measured against the same month during the previous year. These new rules are narrowly tailored to address harmful practices while avoiding burdens on entities not engaging in access stimulation.
- *Phantom Traffic.* We adopt rules to address "phantom traffic," *i.e.*, calls for which identifying information is missing or masked in ways that frustrate intercarrier billing. Specifically, we require telecommunications carriers and providers of interconnected VoIP service to include the calling party's telephone number in all call signaling, and we require intermediate carriers to pass this signaling information, unaltered, to the next provider in a call path.

34. *Comprehensive ICC Reform.* We adopt a uniform national bill-and-keep framework as the ultimate end state for all telecommunications traffic exchanged with a LEC. Under bill-and-keep, carriers look first to their subscribers to cover the costs of the network, then to explicit universal service support where necessary. Bill-and-keep has worked well as a model for the wireless industry; is consistent with and promotes deployment of IP networks; will eliminate competitive distortions between wireline and wireless services; and best promotes our overall goals of modernizing our rules and facilitating the transition to IP. Moreover, we reject the notion that only the calling party benefits from a call and therefore should bear the entire cost of originating, transporting, and terminating a call. As a result, we now abandon the calling-party-network-pays model that dominated ICC regimes of the last century. Although we adopt bill-and-keep as a national framework, governing both inter- and intrastate traffic, states will have a key role in determining the scope of each carrier's financial responsibility for purposes of bill-and-keep, and in evaluating interconnection agreements negotiated or arbitrated under the framework in sections 251 and 252 of the Communications Act. We also address concerns expressed by some commenters about potential fears of traffic "dumping" and seek comment in the FNPRM on whether any additional measures are necessary in this regard.

35. *Multi-Year Transition.* We focus initial reforms on reducing terminating switched access rates, which are the principal source of arbitrage problems today. This approach will promote migration to all-IP networks while minimizing the burden on consumers and staying within our universal service budget. For these rates, as well as certain transport rates, we adopt a gradual, measured transition that

will facilitate predictability and stability. First, we require carriers to cap most ICC rates as of the effective date of this Order. To reduce the disparity between intrastate and interstate terminating end office rates, we next require carriers to bring these rates to parity within two steps, by July 2013. Thereafter, we require carriers to reduce their termination (and for some carriers also transport) rates to bill-and-keep, within six years for price cap carriers and nine for rate-of-return carriers. The framework and transition are default rules and carriers are free to negotiate alternatives that better address their individual needs. Although the Order begins the process of reforming all ICC charges by capping all interstate rate elements and most intrastate rate elements, the FNPRM seeks comment on the appropriate transition and recovery for the remaining originating and transport rate elements. States will play a key role in overseeing modifications to rates in intrastate tariffs to ensure carriers are complying with the framework adopted in this Order and not shifting costs or otherwise seeking to gain excess recovery. The FNPRM also seeks comment on interconnection issues likely to arise in the process of implementing a bill-and-keep methodology for ICC.

36. *New Recovery Mechanism.* We adopt a transitional recovery mechanism to mitigate the effect of reduced intercarrier revenues on carriers and facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo*. Although carriers will first look to limited increases from their end users for recovery, we reject notions that all recovery should be borne by consumers. Rather, we believe, consistent with past reforms, that carriers should have the opportunity to seek partial recovery from all of their end user customers. We permit incumbent telephone companies to charge a limited monthly Access Recovery Charge (ARC) on wireline telephone service, with a maximum annual increase of $0.50 for consumers and small businesses, and $1.00 per line for multi-line businesses, to partially offset ICC revenue declines. To protect consumers, we adopt a strict ceiling that prevents carriers from assessing any ARC for any consumer whose total monthly rate for local telephone service, inclusive of various rate-related fees, is at or above $30. Although the maximum ARC is $0.50 per month, we expect the actual average increase across all wireline consumers to be no more than $0.10-$0.15 a month, which translates into an expected maximum of $1.20-$1.80 per year that the average consumer will pay.[19] We anticipate that consumers will receive more than three times that amount in benefits in the form of lower calling prices, more value for their wireless or wireline bill, or both, as well as greater broadband availability. Furthermore, the ARC will phase down over time as carriers' eligible revenue decreases, and we prevent carriers from charging any ARC on Lifeline customers or further drawing on the Lifeline program, so that ICC reform will not raise rates at all for these low-income consumers. We also seek comment in the FNPRM about reassessing existing subscriber line charges (SLCs), which are not otherwise implicated by this Order, to determine whether those charges are set at appropriate levels.

37. Likewise, although we do not adopt a rate ceiling for multi-line businesses customers, we do adopt a cap on the combination of the ARC and the existing SLC to ensure that multi-line businesses do not bear a disproportionate share of recovery and that their rates remain just and reasonable. Specifically, carriers cannot charge a multi-line business customer an ARC when doing so would result in the ARC plus the existing SLC exceeding $12.20 per line. Moreover, to further protect consumers, we adopt measures to ensure that carriers must apportion lost revenues eligible for ICC recovery between residential and business lines, appropriately weighting the business lines (*i.e.*, according to the higher maximum annual increase in the business ARC) to prevent carriers that elect not to receive ICC CAF from recovering their entire ICC revenue loss from consumers. Carriers may receive CAF support for any otherwise-eligible revenue not recovered by the ARC. In addition, carriers receiving CAF support to

[19] The maximum theoretical ARC for customers of price cap carriers would be $2.50 after 5 years and for customers of rate-of-return carriers would be $3 after 6 years, although we expect the average actual ARC to be less than half of those totals.

offset lost ICC revenues will be required to use the money to advance our goals for universal voice and broadband.

38. In defining how much of their lost revenues carriers will have the opportunity to recover, we reject the notion that ICC reform should be revenue neutral. We limit carriers' total eligible recovery to reflect the existing downward trends on ICC revenues with declining switching costs and minutes of use. For price cap carriers, baseline recovery amounts available to each price cap carrier will decline at 10 percent annually. Price cap carriers whose interstate rates have largely been unchanged for a decade because they participated in the Commission's 2000 CALLS plan will be eligible to receive 90 percent of this baseline every year from ARCs and the CAF. In those study areas that have recently converted from rate-of-return to price cap regulation, carriers will initially be permitted to recover the full baseline amount to permit a more gradual transition, but we will decline to 90 percent recovery for these areas as well after 5 years. All price cap CAF support for ICC recovery will phase out over a three-year period beginning in the sixth year of the reform.

39. For rate-of-return carriers, recovery will be calculated initially based on rate-of-return carriers' fiscal year 2011 interstate switched access revenue requirement, intrastate access revenues that are being reformed as part of this Order, and net reciprocal compensation revenues. This baseline will decline at five percent annually to reflect combined historical trends of an annual three percent interstate cost and associated revenue decline, and ten percent intrastate revenue decline, while providing for true ups to ensure CAF recovery in the event of faster-than-expected declines in demand. Both recovery mechanisms provide carriers with significantly more revenue certainty than the *status quo*, enabling carriers to reap the benefits of efficiencies and reduced switching costs, while giving providers stable support for investment as they adjust to an IP world.

40. *Treatment of VoIP Traffic.* We make clear the prospective payment obligations for VoIP traffic exchanged in TDM between a LEC and another carrier, and adopt a transitional framework for VoIP intercarrier compensation. We establish that default charges for "toll" VoIP-PSTN traffic will be equal to interstate rates applicable to non-VoIP traffic, and default charges for other VoIP-PSTN traffic will be the applicable reciprocal compensation rates. Under this framework, all carriers originating and terminating VoIP calls will be on equal footing in their ability to obtain compensation for this traffic.

41. *CMRS-Local Exchange Carrier (LEC) Compensation.* We clarify certain aspects of CMRS-LEC compensation to reduce disputes and address existing ambiguity. We adopt bill-and-keep as the default methodology for all non-access CMRS-LEC traffic. To provide rate-of-return LECs time to adjust to bill-and-keep, we adopt an interim transport rule for rate-of-return carriers to specify LEC transport obligations under the default bill-and-keep framework for non-access traffic exchanged between these carriers. We also clarify the relationship between the compensation obligations in section 20.11 of the Commission's rules and the reciprocal compensation framework, thus addressing growing concerns about arbitrage related to rates set without federal guidance. Further, in response to disputes, we make clear that a call is considered to be originated by a CMRS provider for purposes of the intraMTA rule only if the calling party initiating the call has done so through a CMRS provider. Finally, we affirm that all traffic routed to or from a CMRS provider that, at the beginning of a call, originates and terminates within the same MTA, is subject to reciprocal compensation, without exception.

42. *IP-to-IP Interconnection.* We recognize the importance of interconnection to competition and the associated consumer benefits. We anticipate that the reforms we adopt will further promote the deployment and use of IP networks, and seek comment in the accompanying FNPRM regarding the policy framework for IP-to-IP interconnection. We also make clear that even while our FNPRM is pending, we expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic.

III. ADOPTION OF A NEW PRINCIPLE FOR UNIVERSAL SERVICE

43. Section 254(b) of the Communications Act sets forth six "universal service principles" and directs the Commission to "base policies for the preservation and advancement of universal service on" these principles.[20] In addition, section 254(b)(7) directs the Commission and the Federal-State Joint Board on Universal Service to adopt "other principles" that we "determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with" the Act.[21]

44. In November 2010, the Federal-State Joint Board on Universal Service recommended that the Commission "specifically find that universal service support should be directed where possible to networks that provide advanced services, as well as voice services," and adopt such a principle pursuant to its 254(b)(7) authority.[22] The Joint Board believes that this principle is consistent with section 254(b)(3) and would serve the public interest.[23] We agree.[24] Section 254(b)(3) provides that consumers in rural, insular and high-cost areas should have access to "advanced telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas."[25] Section 254(b)(2) likewise provides that "Access to advanced telecommunications and information services should be provided in all regions of the Nation."[26] Providing support for broadband networks will further all of these goals.

45. Accordingly, we adopt "support for advanced services" as an additional principle upon which we will base policies for the preservation and advancement of universal service. For the reasons discussed above, we find, per section 254(b)(7), that this new principle is "necessary and appropriate." Consistent with the Joint Board's recommendation, we define this principle as: "Support for Advanced Services – Universal service support should be directed where possible to networks that provide advanced services, as well as voice services."

IV. GOALS

46. *Background.* Consistent with the Government Performance and Results Act of 1993 (GPRA), clear performance goals and measures for the Connect America Fund, including the Mobility Fund, and existing high-cost support mechanisms will enable the Commission to determine not just whether federal funding is used for the intended purposes, but whether that funding is accomplishing the intended results—including our objectives of preserving and advancing voice, broadband, and advanced

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[20] 47 U.S.C. § 254(b).

[21] 47 U.S.C. § 254(b)(7).

[22] *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598, 15625, para. 75 (2010). Numerous commenters supported that recommendation. *See, e.g.*, Massachusetts Department of Telecommunications & Cable *USF/ICC Transformation Comments* at 2-6; Nebraska Public Service Commission *USF/ICC Transformation Comments* at 7-8; Ohio Public Utilities Commission *USF/ICC Transformation Comments* at 3; Telecommunications Industry Association *USF/ICC Transformation Comments* at 5.

[23] *Id.*

[24] We hereby act on a recommendation from the *Joint Board 2010 Recommended Decision*. We are considering the other recommendations and expect to address other issues raised in the *Joint Board 2010 Recommended Decision* in the near future.

[25] 47 U.S.C. § 254(b)(3).

[26] 47 U.S.C. § 254(b)(2).

mobility for all Americans.[27] Moreover, performance goals and measures may assist in identifying areas where additional action by state regulators, Tribal governments, or other entities is necessary to achieve universal service. Performance goals and measures should also improve participant accountability.

47. In the *USF-ICC Transformation NPRM*, the Commission proposed several performance goals and measures to improve program accountability.[28] While commenters generally supported the concept of reorienting the universal service program to support broadband, we received limited comment on the specific goals and measures we proposed in the *NPRM*. No commenter objected to the proposed goals, and the Mercatus Center describes them as "excellent intermediate outcomes to measure."[29]

48. *Discussion.* We adopt the following performance goals for our efforts to preserve and advance service in high cost, rural, and insular areas through the Connect America Fund and existing support mechanisms: (1) preserve and advance universal availability of voice service; (2) ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions; (3) ensure universal availability of modern networks capable of providing mobile voice and broadband service where Americans live, work, and travel; (4) ensure that rates are reasonably comparable in all regions of the nation, for voice as well as broadband services; and (5) minimize the universal service contribution burden on consumers and businesses.[30] We also adopt performance measures for the first, second, and fifth of these goals, and direct the Wireline Competition Bureau and the Wireless Telecommunications Bureau (Bureaus) to further develop other measures. We delegate authority to the Bureaus to finalize performance measures as appropriate consistent with the goals we adopt today.

49. *Preserve and Advance Voice Service.* The first performance goal we adopt is to preserve and advance universal availability of voice service. In doing so, we reaffirm our commitment to ensuring that all Americans have access to voice service while recognizing that, over time, we expect that voice service will increasingly be provided over broadband networks.[31]

50. As a performance measure for this goal, we will use the telephone penetration rate, which measures subscription to telephone service.[32] The telephone penetration rate has historically been

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[27] The Government Performance and Results Act of 1993 established statutory requirements for federal agencies to engage in strategic planning and performance measurement. Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285 (1993). Federal agencies must develop strategic plans with long-term, outcome-related goals and objectives, develop annual goals linked to the long-term goals, and measure progress toward the achievement of those goals in annual performance plans and report annually on their progress in program performance reports. *See also* GPRA Modernization Act of 2010, Pub. L. 111-352, 124 Stat. 3866 (2011). The Office of Management and Budget (OMB) has built upon GPRA through its Program Assessment Rating Tool (PART), which sets forth three types of performance measures: (1) outcome measures; (2) output measures; and (3) efficiency measures. *See* Memorandum from Clay Johnson III, Deputy Director for Management, Office of Management and Budget, to Program Associate Directors, Budget Data Request No. 04-31 (Mar. 22, 2003) (*OMB PART Guidance Memorandum*).

[28] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4697-701, paras. 479-89.

[29] Mercatus *USF/ICC Transformation NPRM* Comments at 17; *see also* Kansas Commission *USF/ICC Transformation NPRM* Comments at 22 ("the KCC supports these priorities").

[30] *See USF/ICC Transformation NPRM*, 26 FCC Rcd at 4584, 4697-701, paras. 80, 479-89.

[31] *See* 47 U.S.C. § 254(b); *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4584, para. 80.

[32] *See* Industry Analysis and Technology Division, Wireline Competition Bureau, *Telephone Subscribership in the United States* at 1 (Aug. 2010) (Aug. 2010 Subscribership Report).

used by the Commission as a proxy for network deployment[33] and, as a result, will be a consistent measure of the universal service program's effects. We will also continue to use the Census Bureau's Current Population Survey (CPS) to collect data regarding telephone penetration.[34] Although CPS data does not specifically break out wireless, VoIP, or over-the-top voice options available to consumers,[35] a better data set is not currently available. In recognition of the limitations of existing data, the Commission is considering revising the types of data it collects,[36] and we anticipate further Commission action in this proceeding, which may provide more complete information that we can use to evaluate this performance goal.

51. *Ensure Universal Availability of Voice and Broadband to Homes, Businesses, and Community Anchor Institutions.* The second performance goal we adopt is to ensure the universal availability of modern networks capable of delivering broadband and voice service to homes, businesses, and community anchor institutions.[37] All Americans in all parts of the nation, including those in rural, insular, and high-cost areas, should have access to affordable modern communications networks capable of supporting the necessary applications that empower them to learn, work, create, and innovate.[38]

52. As an outcome measure for this goal, we will use the number of residential, business, and community anchor institution locations that newly gain access to broadband service.[39] As an efficiency measure, we will use the change in the number of homes, businesses, and community anchor institutions passed or covered per million USF dollars spent.[40] To collect data, we will use the National Broadband Map and/or Form 477. We will also require CAF recipients to report on the number of community anchor institutions that newly gain access to fixed broadband service as a result of CAF support.[41] Although these measures are imperfect, we believe that they are the best available to us.[42] Other options, such as the Mercatus Centers' suggestion of using an assessment of what might have occurred without the programs, are not administratively feasible at this time.[43] But we direct the Bureaus to revisit these measures at a later point, and to consider refinements and alternatives.

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[33] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4605, para. 146; *see also* Aug. 2010 Subscribership Report at 1-2.

[34] *See* Aug. 2010 Subscribership Report at 1.

[35] *See USF/ICC Transformation NPRM*, 26 FCC Rcd at 4699, para. 483.

[36] *See Broadband Data NPRM*, 26 FCC Rcd at 1527-33, paras. 49-65.

[37] We use the term "modern networks" because we expect that supported equipment and services will change over time to keep up with technological advancements. We note that "[c]ommunity anchor institutions" as defined in the Recovery Act include schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities. *See* 47 U.S.C. § 1305(b)(3)(A). We adopt that definition for purposes of these rules.

[38] *See USF/ICC Transformation NPRM*, 26 FCC Rcd at 4699-700, para. 485; *see also* 47 U.S.C. § 254(b).

[39] *See USF/ICC Transformation NPRM*, 26 FCC Rcd at 4699-700, para. 485.

[40] *See id.*

[41] *See infra* Section VII.A.2.

[42] As the Mercatus Center points out, both measures fail to take into account the change in deployment that would have occurred without the high-cost program and CAF. Mercatus *USF/ICC Transformation NPRM* Comments at 12-14. And as previously noted, the efficiency measure could be biased towards lower-cost areas. *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4699-700, para. 485.

[43] Mercatus *USF/ICC Transformation NPRM* Comments at 12-14.

53. *Ensure Universal Availability of Mobile Voice and Broadband Where Americans Live, Work, or Travel.* The third performance goal we adopt is to ensure the universal availability of modern networks capable of delivering mobile broadband and voice service in areas where Americans live, work, or travel. Like the preceding parallel goal, our third performance goal is designed to help ensure that all Americans in all parts of the nation, including those in rural, insular, and high-cost areas, have access to affordable technologies that will empower them to learn, work, create, and innovate. But we believe that ensuring universal advanced mobile coverage is an important goal on its own, and that we will be better able track program performance if we measure it separately.

54. We decline to adopt performance measures for this goal at this time but direct the Wireless Telecommunications Bureau to develop one or more appropriate measures for this goal.

55. *Ensure Reasonably Comparable Rates for Broadband and Voice Services.* The fourth performance goal we adopt is to ensure that rates are reasonably comparable for voice as well as broadband service, between urban and rural, insular, and high cost areas. Rates must be reasonably comparable so that consumers in rural, insular, and high cost areas have meaningful access to these services.[44]

56. We also decline to adopt measures for this goal at this time. Although the Commission proposed one outcome measure and asked about others in the *USF/ICC Transformation NPRM*,[45] we received only limited input on that proposal. The Mercatus Center agrees that "[t]he ratio of prices to income is an intuitively sensible way of defining 'reasonably comparable'" but cautions that, again, the real challenge is crafting measures that distinguish how the programs affect rates apart from other factors.[46] The Bureaus may seek to further develop the record on the performance and efficiency measures suggested by the Mercatus Center,[47] the Commission's original proposals, and any other measures commenters think would be appropriate. In undertaking this analysis, we direct the Bureau to develop separate measures for (1) broadband services for homes, businesses, and community anchor institutions; and (2) mobile services.

57. *Minimize Universal Service Contribution Burden on Consumers and Businesses.* The fifth performance goal we adopt is to minimize the overall burden of universal service contributions on American consumers and businesses. With this performance goal, we seek to balance the various objectives of section 254(b) of the Act, including the objective of providing support that is sufficient but not excessive so as to not impose an excessive burden on consumers and businesses who ultimately pay to support the Fund.[48] As we have previously recognized, "if the universal service fund grows too large, it

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[44] *See* 47 U.S.C. § 254(b)(3); *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4584, para. 80.

[45] We proposed that the ratio of the rural price to rural household disposable income should be similar to the ratio in urban areas, both for voices services and for broadband services. We also asked whether we should measure instead the percentage of total household income devoted to these services, or the relative actual prices of these services in rural and urban areas. *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4700, para. 486.

[46] Mercatus *USF/ICC Transformation NPRM* Comments at 14-15.

[47] *Id.* at 15.

[48] Contributions are assessed on the basis of a contributor's projected collected interstate and international end-user telecommunications revenues, based on a percentage or "contribution factor" that is calculated every quarter. *See* 47 C.F.R. § 54.709. A contributor may recover the costs of universal service contributions by passing an explicit charge through to its customers. 47 CFR § 54.712(a). *See Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, 4088, para. 29 (2010) (*Qwest II Remand Order*) (explaining that the Commission could not be a prudent guardian of the public's resources without taking into account the costs of universal service, alongside the benefit); *Rural Cellular Ass'n*, 588 F.3d at 1102; *see also, e.g., Alenco*, 201 F.3d (continued...)

will jeopardize other statutory mandates, such as ensuring affordable rates in all parts of the country, and ensuring that contributions from carriers are fair and equitable."[49]

58. As a performance measure for this goal, we will divide the total inflation-adjusted expenditures of the existing high-cost program and CAF (including the Mobility Fund) each year by the number of American households and express the measure as a monthly dollar figure.[50] This calculation will be relatively straightforward and rely on publicly available data.[51] As such, the measure will be transparent and easily verifiable.[52] By adjusting for inflation and looking at the universal service burden, we will be able to determine whether the overall burden of universal service contribution costs is increasing or decreasing for the typical American household.[53] As an efficiency measure, the Mercatus Center suggests comparing the estimate of economic deadweight loss associated with the contribution mechanism to the deadweight loss associated with taxation.[54] We anticipate that the Bureaus may seek further input on this option and any others commenters believe would be appropriate.

59. *Program Review.* Using the adopted goals and measures, the Commission will, as required by GPRA, monitor the performance of our universal service program as we modernize the current high-cost program and transition to the CAF.[55] If the programs are not meeting these performance goals, we will consider corrective actions. Likewise, to the extent that the adopted measures do not help us assess program performance, we will revisit them as well.

V. LEGAL AUTHORITY

60. In this section, we address our statutory authority to implement Congress's goal of promoting ubiquitous deployment of, and consumer access to, both traditional voice calling capabilities and modern broadband services over fixed and mobile networks. As explained below, Congress has authorized the Commission to support universal service in the broadband age. Section 254 grants the Commission clear authority to support telecommunications services and to condition the receipt of universal service support on the deployment of broadband networks, both fixed and mobile, to consumers. Section 706 provides the Commission with independent authority to support broadband networks in order to "accelerate the deployment of broadband capabilities" to all Americans. Recently, moreover, Congress

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at 620–21 (concluding that the Commission properly considered the costs of universal service in reforming one part of the high-cost support mechanism).

[49] *Qwest II Remand Order*, 25 FCC Rcd at 4087, para. 28.

[50] *See USF/ICC Transformation NPRM*, 263 FCC Rcd at 4700-01, para. 487. Adjustments for inflation will be calculated using the Bureau of Labor Statistics' Consumer Price Index Inflation Calendar. *See* http:// http://www.bls.gov/data/inflation_calculator.htm (last visited Sept. 9, 2011).

[51] *USF/ICC Transformation NPRM*, 263 FCC Rcd at 4700-01, para. 487; *see also* Mercatus Center *USF/ICC Transformation NPRM* Comments at 16 ("This is a sensible and straightforward measure of the contribution.").

[52] *USF/ICC Transformation NPRM*, 263 FCC Rcd at 4700-01, para. 487.

[53] As a starting point, we will use the overall per-household burden of the high-cost program. In 2010, this was $3.03 per month. *See USF/ICC Transformation NPRM*, 263 FCC Rcd at 4700-01, para. 487.

[54] Mercatus Center *USF/ICC Transformation NPRM* Comments at 16.

[55] If the Commission identifies an outcome as a "priority goal," then it must review progress quarterly. Otherwise performance must only be reviewed annually. *See* GPRA Modernization Act of 2010, §§ 1116, 1120-1121. Most priority goals will be published in February 2012. Office of Management and Budget, Memorandum for Heads of Executive Departments and Agencies, at 13 (Aug. 17, 2011), *available at* http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-31.pdf (last visited Oct. 31, 2011).

has reaffirmed its strong interest in ubiquitous deployment of high speed broadband communications networks: the 2008 Farm Bill directing the Chairman to submit to Congress "a comprehensive rural broadband strategy," including recommendations for the rapid buildout of broadband in rural areas and for how federal resources can "best . . . overcome obstacles that impede broadband deployment";[56] the Broadband Data Improvement Act, to improve data collection and "promote the deployment of affordable broadband services to all parts of the Nation";[57] and the Recovery Act, which required the Commission to develop the National Broadband Plan to ensure that every American has "access to broadband capability and . . . establish benchmarks for meeting that goal."[58] By exercising our statutory authority consistent with the thrust of these provisions, we ensure that the national policy of promoting broadband deployment and ubiquitous access to voice telephony services is fully realized.

61. *Section 254.* The principle that all Americans should have access to communications services has been at the core of the Commission's mandate since its founding. Congress created this Commission in 1934 for the purpose of making "available . . . to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."[59] In the 1996 Act, Congress built upon that longstanding principle by enacting section 254. Section 254 sets forth six principles upon which we must "base policies for the preservation and advancement of universal service."[60] Among these principles are that "[q]uality services should be available at just, reasonable, and affordable rates," that "[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation," and that "[c]onsumers in all regions of the Nation . . . should have access to telecommunications and information services, including . . . advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas" and at reasonably comparable rates.[61]

62. Under section 254, we have express statutory authority to support telecommunications services that we have designated as eligible for universal service support.[62] Section 254(c)(1) of the Act defines "[u]niveral service" as "an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services." As discussed more fully below, in this Order, we adopt our proposal to simplify how we describe the various supported services that the Commission historically has defined in functional terms (*e.g.*, voice grade access to the PSTN, access to emergency services) into a single supported service designated as "voice telephony service."[63] To the extent carriers offer traditional voice telephony services as telecommunications services over traditional circuit-switched networks, our authority to provide support for such services is well established.

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[56] Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 6112, 122 Stat. 923, 1966 (2008) (2008 Farm Bill). Acting Chairman Copps transmitted the report to Congress on May 22, 2009. *See Rural Broadband Report Published in the FCC Record*, GN Docket No. 09-29, Public Notice, 24 FCC Rcd 12791 (2009).

[57] Broadband Data Improvement Act, Pub. L. No. 110-385, 122 Stat. 4096 (2008) (codified at 47 U.S.C. § 1301 *et seq.*).

[58] *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009); 47 U.S.C. § 1305(k)(2).

[59] 47 U.S.C. § 151.

[60] 47 U.S.C. § 254(b).

[61] 47 U.S.C. § 254(b)(1)-(3).

[62] 47 U.S.C. § 254(c).

[63] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4590, para. 95; *see infra* Section VI.A.

63. Increasingly, however, consumers are obtaining voice services not through traditional means but instead through interconnected VoIP providers offering service over broadband networks. As AT&T notes, "[c]ircuit-switched networks deployed primarily for voice service are rapidly yielding to packet-switched networks," which offer voice as well as other types of services."[64] The data bear this out. As we observed in the *Notice*, "[f]rom 2008 to 2009, interconnected VoIP subscriptions increased by 22 percent, while switched access lines decreased by 10 percent."[65] Interconnected VoIP services, among other things, allow customers to make real-time voice calls to, and receive calls from, the PSTN, and increasingly appear to be viewed by consumers as substitutes for traditional voice telephone services.[66] Our authority to promote universal service in this context does not depend on whether interconnected VoIP services are telecommunications services or information services under the Communications Act.[67]

64. Section 254 grants the Commission the authority to support not only voice telephony service but also the facilities over which it is offered. Section 254(e) makes clear that "[a] carrier that receives such [universal service] support shall use that support only for the provision, maintenance, and upgrading of *facilities and services* for which the support is intended."[68] By referring to "facilities" and "services" as distinct items for which federal universal service funds may be used, we believe Congress granted the Commission the flexibility not only to designate the types of telecommunications services for which support would be provided, but also to encourage the deployment of the types of facilities that will best achieve the principles set forth in section 254(b) and any other universal service principle that the Commission may adopt under section 254(b)(7).[69] For instance, under our longstanding "no barriers" policy, we allow carriers receiving high-cost support "to invest in infrastructure capable of providing access to advanced services" as well as supported voice services.[70] That policy, we explained, furthers

[64] AT&T Apr. 11, 2011 Comments at 10.

[65] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4560, para. 8 (citing Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition Report: Status as of December 2009*, at 6 (Jan. 2011) (Jan. 2011 Local Competition Report)). From 2009 to 2010, interconnected VoIP subscriptions increased by 22 percent (from 26 million to 32 million) and retail switched access lines decreased by 8 percent (from 127 million to 117 million). Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition Report: Status as of December 31, 2010*, at 2 (Oct. 2011) (Oct. 2011 Local Competition Report).

[66] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4747, para. 612; *see also IP-Enabled Services*, 20 FCC Rcd 10245, 10256, para. 23 (2005) ("consumers expect that VoIP services that are interconnected with the PSTN will function in some ways like a 'regular telephone' service."), *pet. for review denied, Nuvio Corp. v. FCC*, 473 F.3d 302 (D.C. Cir. 2006).

[67] If interconnected VoIP services are telecommunications services, our authority under section 254 to define universal service after "taking into account advances in telecommunications and information technologies and services" enables us to include interconnected VoIP services as a type of voice telephony service entitled to federal universal service support. And, as explained below, if interconnected VoIP services are information services, we have authority to support the deployment of broadband networks used to provide such services.

[68] 47 U.S.C. § 254(e) (emphasis added).

[69] In establishing the rules governing the designation and responsibilities of ETCs pursuant to section 214(e), we have long defined the term "facilities" to mean "any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support." 47 C.F.R. § 54.201(e); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8813, para. 67 (1997) (*Universal Service First Report and Order*) (subsequent history omitted).

[70] *See Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, (continued...)

the policy Congress set forth in section 254(b) of "ensuring access to advanced telecommunications and information services throughout the nation."[71] While this policy was enunciated in an Order adopting rule changes for rural incumbent carriers, by its terms it is not limited to such carriers. The "no-barriers" policy has applied, and will continue to apply, to all ETCs, and we codify it in our rules today. Section 254(e) thus contemplates that carriers may receive federal support to enable the deployment of broadband facilities used to provide supported telecommunications services as well as other services.[72]

65. We further conclude that our authority under section 254 allows us to go beyond the "no barriers" policy and require carriers receiving federal universal service support to invest in modern broadband-capable networks.[73] We see nothing in section 254 that requires us simply to provide federal funds to carriers and hope that they will use such support to deploy broadband facilities. To the contrary, we have a "mandatory duty" to adopt universal service policies that advance the principles outlined in section 254(b), and we have the authority to "create some inducement" to ensure that those principles are achieved.[74] Congress made clear in section 254 that the deployment of, and access to, information services – including "advanced" information services – are important components of a robust and successful federal universal service program.[75] Furthermore, we are adopting today the recommendation of the Federal-State Joint Board on Universal Service to establish a new universal service principle pursuant to section 254(b)(7) that universal service support should be directed where possible to networks that provide advanced services, as well as voice services."[76] In today's communications environment, achievement of these principles requires, at a minimum, that carriers receiving universal service support invest in and deploy networks capable of providing consumers with access to modern broadband capabilities, as well as voice telephony services. Accordingly, as explained in greater detail below, we will exercise our authority under section 254 to require that carriers receiving support – both CAF support, including Mobility Fund support,[77] and support under our existing high-cost support mechanisms

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16 FCC Rcd 11244, 11322, para. 200 (2001) (*Rural Task Force Order)* ("[U]se of support to invest in infrastructure capable of providing access to advanced services does not violate section 254(e), which mandates that support be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services.") (footnote reference omitted)

[71] *2003 Definition of Universal Service Order*, 18 FCC Rcd at 15095-96, para. 13.

[72] We also note that the Commission has historically concluded that "the proper measure of cost for determining the level of universal service support is the forward-looking economic cost of constructing and operating the network facilities and functions used to provide the supported services," First Report and Order, 12 FCC Rcd at 8899, para. 224, and that the record contains evidence that the forward-looking cost of deploying voice- and broadband-capable networks today is generally not significantly higher than deploying voice-only networks, *see, e.g.*, Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 09-51 at 2-3 (filed Feb. 12, 2010) ("Fiber networks are . . . more efficient, and more reliable than the legacy copper network. . . . [T]hey are cheaper to maintain and have fewer potential points of failure than copper lines."). Indeed, although we are updating the high-cost fund to support modern voice and broadband networks, we are not increasing the overall size of the fund to do so.

[73] *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4581, para. 71.

[74] *Qwest Corp. v. FCC*, 258 F.3d 1191, 1200, 1204 (10th Cir. 2001) (*Qwest I*).

[75] 47 U.S.C. §§ 254(b)(2), (b)(3).

[76] *See infra* Section III.

[77] Recipients of Mobility Fund Phase One support, however, are not required to provide broadband as discussed below. *See infra* Section VII.E..1.b.vi.

– offer broadband capabilities to consumers.[78] We conclude that this approach is sufficient to ensure access to voice and broadband services and, therefore, we do not, at this time, add broadband to the list of supported services, as some have urged.[79]

66. *Section 706.*[80] We also have independent authority under section 706 of the Telecommunications Act of 1996 to fund the deployment of broadband networks. In section 706, Congress recognized the importance of ubiquitous broadband deployment to Americans' civic, cultural, and economic lives and, thus, instructed the Commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."[81] Of particular importance, Congress adopted a definition of "advanced telecommunications capability" that is not confined to a particular technology or regulatory classification. Rather, " 'advanced telecommunications capability' is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology."[82] Section 706 further requires the Commission to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion" and, if the Commission concludes that it is not, to "*take immediate action* to accelerate deployment of such capability by removing barriers to infrastructure

[78] Section 254(e) states that "support should be explicit and sufficient to achieve the purposes" of section 254. As discussed below, our CAF rules satisfy this requirement. *See generally infra*, Section VII.

[79] *See, e.g.*, Communications Workers of America *USF/ICC Transformation NPRM* Comments at 5-6; National Association of Telecommunications Officers and Advisors *USF/ICC Transformation NPRM* Comments at 3; State Members *USF/ICC Transformation NPRM* Comments at 2; Vonage *USF/ICC Transformation NPRM* Comments at 6-8.

[80] Commissioner McDowell does not support the view that section 706 provides the Commission with authority to support broadband through universal service funds. Instead, Commissioner McDowell's view is that section 706 is very narrow in scope and is therefore unnecessary in reaching this conclusion.

[81] 47 U.S.C. § 1302(a). This direct mandate is consistent with numerous other statutory provisions governing the Commission. *See, e.g.*, 47 U.S.C. §§ 151 (instituting FCC for, among other objectives, "the purpose of regulating interstate and foreign communication by wire and radio so as to make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges"), 157 ("It shall be the policy of the United States to encourage the provision of new technologies and services to the public."), 230(b)(1) ("It is the policy of the United States . . . to promote the continued development of the Internet and other interactive computer services and other interactive media"), 257 (mandating ongoing review to identify and eliminate "market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services," with the goal of promoting "the policies and purposes of this [Communications] Act favoring a diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity"); *see also* Recovery Act § 6001(k)(1) (requiring the Commission to develop a National Broadband Plan with the goal of promoting, among other things, "private sector investment, entrepreneurial activity, job creation and economic growth").

[82] 47 U.S.C. § 1302(d)(1); *see also National Broadband Plan for our Future*, Notice of Inquiry, 24 FCC Rcd 4342, 4309, App., para. 13 (2009) ("advanced telecommunications capability" includes broadband Internet access); *Inquiry Concerning the Deployment of Advanced Telecomms. Capability to All Americans in a Reasonable and Timely Fashion*, CC Docket No. 98-146, Report, 14 FCC Rcd 2398, 2400, para. 1 (1999) (section 706 addresses "the deployment of broadband capability"), 2406, para. 20 (same). The Commission has observed that the phrase "advanced telecommunications capability" in section 706 is similar to the term "advanced telecommunications and information services" in section 254. *See Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 21 FCC Rcd 11111, 11113 n.9 (2006).

investment and by promoting competition in the telecommunications market."[83] The Commission has found that broadband deployment to all Americans has not been reasonable and timely[84] and observed in its most recent broadband deployment report that "too many Americans remain unable to fully participate in our economy and society because they lack broadband."[85] This finding triggers our duty under section 706(b) to "remov[e] barriers to infrastructure investment" and "promot[e] competition in the telecommunications market" in order to accelerate broadband deployment throughout the Nation.

67. Providing support for broadband networks helps achieve section 706(b)'s objectives. First, the Commission has recognized that one of the most significant barriers to investment in broadband infrastructure is the lack of a "business case for operating a broadband network" in high-cost areas "[i]n the absence of programs that provide additional support."[86] Extending federal support to carriers deploying broadband networks in high-cost areas will thus eliminate a significant barrier to infrastructure investment and accelerate broadband deployment to unserved and underserved areas of the Nation. The deployment of broadband infrastructure to all Americans will in turn make services such as interconnected VoIP service accessible to more Americans.

68. Second, supporting broadband networks helps "promot[e] competition in the telecommunications market," particularly with respect to voice services.[87] As we have long recognized, "interconnected VoIP service 'is increasingly used to replace analog voice service.' "[88] Thus, we previously explained that requiring interconnected VoIP providers to *contribute* to federal universal service support mechanisms promoted competitive neutrality because it "reduces the possibility that carriers with universal service obligations will compete directly with providers without such obligations."[89] Just as "we do not want contribution obligations to shape decisions regarding the technology that interconnected VoIP providers use to offer voice services to customers or to create opportunities for regulatory arbitrage,"[90] we do not want to create regulatory distinctions that serve no universal service purpose or that unduly influence the decisions providers will make with respect to how best to offer voice services to consumers. The "telecommunications market" – which includes interconnected VoIP and by statutory definition is broader than just telecommunications services[91] – will

[83] 47 U.S.C. § 1302(b) (emphasis added).

[84] *Sixth Broadband Deployment Report*, 25 FCC Rcd at 9558, paras. 2-3; *Seventh Broadband Deployment Report*, 26 FCC Rcd at 8009, para. 1.

[85] *Seventh Broadband Deployment Report*, 26 FCC Rcd at 8011, para. 4.

[86] *Id.* at 8040, para. 66.

[87] 47 U.S.C. § 1302(b).

[88] *Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, Telecommunications Services for Individuals with Hearing and Speech Disabilities, Number Resource Optimization, Telephone Number Portability, Truth-In-Billing and Billing Format, IP-Enabled Services*, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 92-237, 99-200, 90-571, 95-116 98-170, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7541 (2006) (*VoIP USF Order*) (*quoting CALEA First Report and Order*, 20 FCC Rcd at 15009-10, para. 42), 21 FCC Rcd at 7541, para. 44 (quoting *CALEA First Report and Order*, 20 FCC Rcd at 15009-10, para. 42).

[89] *Id.*

[90] *Id.*

[91] *Compare* 47 U.S.C. § 153(50) (defining "telecommunications") *with* 47 U.S.C. § 153(53) (defining "telecommunications service").